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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/665,245 09/18/00 SEROBIAN

A 380.42

EXAMINER

IM52/1102

THE CLOROX COMPANY  
POST OFFICE BOX 24305  
OAKLAND CA 94623-1305

REDDICK, M	ART UNIT	PAPER NUMBER
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1713  
DATE MAILED:

11/02/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/665,245	SEROBIAN, ASHOT
	Examiner	Art Unit
	Judy M. Reddick	1713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 25 January 2001.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-5 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-5 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5 .

4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_

**DETAILED ACTION**

**Information Disclosure Statement**

1. *The information disclosure statement filed on 01/25/01 has been considered and placed in the application file.*

**Specification**

2. *The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.*

**The following title is suggested: NON-WAX SUPERIOR GLOSS POLISHING COMPOSITION.**

**Claim Rejections - 35 USC § 112**

3. *The following is a quotation of the second paragraph of 35 U.S.C. 112:*

*The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.*

4. *Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.*

**A)** *The recited "acrylic polymer emulsifier" per claim 1 constitutes indefinite subject matter as per it not being readily ascertainable if said emulsifier is an "acrylic polymer" or a "non-polymeric emulsifier" for an acrylic polymer.*

**B).** *The recited "containing a preservative" per claim 2 and "containing a fragrance" per claim 3 constitutes indefinite subject matter as per it not being readily ascertainable as to how such further limits the antecedently recited "polishing compound". It is suggested that "further" be inserted before*

**“containing” in both of claims 2 and 3 so as to clearly establish that the “preservative” and “fragrance” are further limitations of the antecedently recited “polishing compound”.**

**C) The recited “compound” per each of claims 1-5 should read “composition” so as to dispel any ambiguity.**

**D) The recited “comprises”(all occurrences) per claims 4 and 5 constitutes indefinite subject matter as per it not being readily ascertainable as to how the recited components can comprise the recited contents. The following is suggested: “wherein the content of the acrylic resin is from about 0.6% to about 2.5 % by weight of the polishing compound”. The same suggestion applies to the silicone fluid, abrasive, etc. See also claim 5.**

**E) The recited “compounds” per claims 4 and 5 at lines 7, 11 and 13 constitutes indefinite subject matter as per the non-establishment of proper antecedent basis.**

**Claim Rejections - 35 USC § 103**

**5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:**

**(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.**

**6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:**

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lohr et al(U.S. 4,347,333) or Lohr et al(EP 42,281) in combination with Varga et al(U.S. 4,497,919).

*Lohr et al'333 and Lohr et al(EP'281) each teach oil-in-water polishing compositions for hard surfaces wherein said compositions are defined basically as containing a) from about 5 to about 65 wt. % of at least one solvent such as a hydrocarbon solvent, b) about 15 to about 90 wt. % of water, c) about 0.5 to about 8 wt. % of at least one surfactant, d) 0 to about 20 wt. % of an abrasive which includes aluminum silicate, e) 3 to 15 wt. % of a silicone fluid, f) 0 to 10 wt. % of a wax, g) 0.5 to 3 wt. % of at least one acrylic polymer and h) other conventional additives which include preservatives, dyes, pigments perfumes and thickeners such as an ethylene/maleic anhydride resin solution. See, e.g., the Abstract, cols. 2-6 and Runs 1-5 and 10 and the claims of Lohr et al'333 and pages 3-11, the Runs and claims of Lohr et al(EP'281).*

*The disclosures of each of Lohr et al differ basically from the claimed invention as per the non-express disclosure of an embodiment directed to the use of the specifically claimed alkanol co-solvent in formulating the polish compositions. However, it is conventionally well known to use alcoholic co-solvents in formulating high-gloss polish compositions*

*similar to the polish compositions of patentees as per Varga et al/col. 6, lines 21-25). Therefore, one having ordinary skill in the art would have found it obvious, on its face, to add an alcoholic co-solvent to the polish composition of each of Lohr et al and with a reasonable expectation of obtaining the cumulative additive effect. Criticality for such, commensurate in scope with the claims, not having been demonstrated on this record.*

**Conclusion**

8. *Note the attached FORM PTOL-892 for additional prior art cited as of being illustrative of the general state of the art.*

*Any inquiry concerning this communication or earlier communications from the examiner should be directed to Judy M. Reddick whose telephone number is (703)308-4346. The examiner can normally be reached on Monday-Friday, 6:30 a.m.-3:00 p.m..*

*If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (703)308-2450. The fax phone numbers for the organization where this application or proceeding is assigned are (703)872-9310 for regular communications and (703)892-9311 for After Final communications.*

*Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-8183.*

Art Unit: 1713

*J. M. Reddick*  
**Judy M. Reddick**  
**Primary Examiner**  
**Art Unit 1713**

*JMR JMR*  
**November 1, 2001**